

Water Pollution Control Advisory Council Meeting
August 17, 2000 1:05 p.m. 2:10 p.m.
Room 239 Metcalf Bldg

Attendees

Council Members

Richard Parks, Fishing Outfitters Association of Montana
Don Halverson, Plumbers & Pipefitters Union
Dan Sullivan, Dept of Agriculture
Doug Parker, ASARCO
Don Skaar, Dept of FW&P
Roger Noble, Land & Water Consulting
Robert Willems, Conservation Districts
Barb Butler, Municipal Government

Other Attendees

Bob Raisch, Dept of Environmental Quality (DEQ)
Stuart Lehman, DEQ
Tom Reid, DEQ
Bonnie Lovelace, DEQ
Qwen Pozega, DEQ
Abe Horpestad, DEQ
Claudia Massman, DEQ
Bob Bukantis, DEQ

Approval of Minutes

The meeting was called to order by Chairman Richard Parks at 1:05 p.m. This was the first meeting of the Water Pollution Control Advisory Council (WPCAC) to be held by telephone conference call. Introductions were made by Council members participating in the meeting via telephone and guests and members present in the room.

Chairman Parks had a correction/clarification of the minutes from the last meeting. On page 4 in reference to the Mine Bonding Bill, what Chairman Parks meant was that traditional bonding is planned on the basis of everything working and a bonding bill should incorporate contingency planning in case it doesn't work. With that change the minutes were passed as read.

District Court's Remedy Order on EPA's Approval of an Insufficient Number of TMDL's for Montana:

Claudia Massman, DEQ

In brief the plaintiffs wanted more say in the TMDL decision process, and the defendants, including DEQ, wanted the issue remanded to EPA so they could make a decision if the state had done enough work concerning the amount of streams left. The court rejected both arguments. The judge ordered the state to complete TMDLs for all the water quality limited stream segments on the 1996 list by May 5, 2007. The state also must have a schedule for doing the TMDLs by November 1, 2000. Item six in his order imposed a ban on EPA issuing any MPDES permits until all TMDLs are completed on any listed stream. After the order was issued, all parties filed motions to reconsider the order. Since EPA delegated authority for NPDES permitting to DEQ, the plaintiffs requested the court to amend the orders to include both EPA and DEQ.

Chairman Parks asked if that applies to a Montana MPDES as well as a national permit. Claudia answered that was what the plaintiffs wanted. They filed a motion asking that the judge clarify that point so that it would expressly apply to Montana DEQ permits.

Briefing on the Appeal of the Redstone Gas Partners MPDES Permit for Coal Bed Methane:

Claudia Massman, DEQ

Three appeals have been filed against the issuance of the MPDES permit for Redstone Gas. The appeals state that DEQ failed to conduct a nondegradation review, did not use the right mixing zones, did not do enough water monitoring, that the permit violates the Montana constitution, and the permit violates Judge Molloy's order. The Board of Environmental Review will appoint a hearings officer to review the appeals. Tom Reid stated that the permit was issued June 16, 2000, and amended on July 3, 2000 to add some additional information. The permit contains effluent limits on discharge: it is limited to 1,600 gallons per minute and contains monitoring requirements in-stream and on the effluent discharge. The permit is effective until March 31, 2002.

Don Skaar asked about the appeal on the nondegradation issue and whether it was addressed in the permit or if they were interpreting the requirement differently. Mr. Reid stated that nondegradation was addressed in the

permit, but they were interpreting it differently. Ms. Massman also said that the appeals were based on a misinterpretation of the nondegradation rule.

Bob Raisch told the council that the Governor had just recently appointed DEQ as the lead agency in regards to coal bed methane environmental analysis.

Final Federal TMDL/NPDES Regulations: Stuart Lehman, Bob Bukantis, Bonnie Lovelace, DEQ

Mr. Lehman said that DEQ had comments concerning the draft regulations when they were first published. The concerns were that they were not flexible enough, they did not recognize existing state programs, and that they required more reporting and modeling than was needed. The regulations were finalized in July, 2000, however due to funding constraints from Congress they will not be implemented for 18 months and then there is another nine month waiting period. These standardized plans will make it more difficult for DEQ because we rely on non-point source implementation plans as well as other plans to achieve water quality. However there is some flexibility in the new regulations to use other appropriate measures to establish TMDL's and load levels.

Barb Butler asked if the final rule was sealed or could it be changed and does congress have the ability to approve or disapprove. Mr. Raisch said the rules are final but congress can do anything it wants to pass a law that will override the rule. Bob Bukantis stated that congress would not do anything until it reconvenes after the election. There is some unhappiness on a bipartisan level with the new rules.

Ms. Lovelace also said that very little of the proposals for the MPDES permit were adopted. The EPA did not adopt any of the changes that were recommended by Montana or any other western state.

Upper Blackfoot Mining Complex Temporary Water Quality Standards Implementation Plan: Chris Levine, Abe Horpestad, DEQ

Chris Levine told the Council that the Forest Service had taken DEQ on a tour of the mining complex in Lincoln. The Board of Environmental Review (BER) wanted some changes made to the implementation plan to reflect tracking of average concentrations in-stream to ensure there wasn't a gradual increase in discharge. Surface water monitoring will be conducted in October, 2000.

Doug Parker asked what the status was of reviewing the permit for the discharge associated with the Mike-Horse project. Mr. Reid said that nothing had been initiated at this time. Mr. Parker said that the law requires the Department to review the permit and ASARCO's concern is that they will be in violation if the permit is not reviewed by October 1, 2000.

Mr. Raisch stated that DEQ is working on the implementation plan for the temporary standards to also make it suffice as a TMDL. Abe Horpestad said that DEQ is drafting some changes to the temporary standards portion of the Water Quality Act to clarify the problem of having an implementation plan before the temporary standards are granted. Chairman Parks asked that a copy of the draft legislation be available for the Council to look at.

Water Pollution State Revolving Fund and Non-Point Source Funding: Gwen Pozega, DEQ

The State Revolving Fund (SRF) program provides low interest rate (4 percent) loans to cities, towns, and water and sewer districts. Purpose of the loans is for groups that want to build new waste water treatment systems or rehabilitate existing systems. DEQ SRF is working to get into more non-point source pollution projects. DEQ had developed a new ranking criteria incorporating a watershed approach to rank non-point source projects on the priority list. DEQ now has the ability to provide loans to nontraditional water pollution activities.

Bob Willems wanted to know what kind of involvement DEQ was having with Fish, Wildlife and Parks (FWP) concerning stream bank restoration. Ms. Pozega stated that there had been no involvement with FWP to date, but that it was something they would certainly look at. Chairman Parks said that if more people were aware of the possibility of that funding then more people would be involved. Ms. Pozega said that right now the money is for public entities and it is hard for private organizations to get access to the funds. The Department is currently working on legislation that would allow them to make the money available to private individuals. Ms. Butler said that the 1999 Legislature made that money available to public as well as private landfills, is there going to be any change to that and who would the expansion effect in the private sector. Ms. Pozega replied that subdivisions applying to upgrade or renew drain fields and septic systems would be one example. Ms. Butler also wanted to know if the money was on a "use it or lose it" basis. Ms. Pozega said that a certain percentage of the money had to go out for loans and that DEQ has been able to meet those criteria so far.

Cabin Creek Coal Development on the North Fork of Flathead River: Bob Raisch, DEQ

Some rumors were circulating in the Flathead Valley about the Canadian government redeveloping coal mining in the Cabin Creek area. Mr. Raisch said that according to his research the Canadians have no plans to re-open Cabin Creek mining operations. They have shut down two large coal operations in British Columbia (B.C.) due to a lack of demand and a soft market. They have no intentions of starting mining operations in that area for the next 10-15 years. The B.C. government had re-stated at some point that the primary use for that area is coal and forestry. That is where the rumor came from.

Next Meeting

Mr. Raisch polled the council members on the phone to find out if they thought the conference call was a good idea. Except for some minor hearing problems over the phone, all members thought it was a good idea and should be used more often, especially in the winter. Chairman Parks liked the way the meeting went, and stated that for future meetings with informational briefings and a light agenda, this is the way to go. The Council should meet together for meetings that have action items on rules or to comment on rules; the discussion would benefit from the interaction between members. Chairman Parks set a standard time of 1:30 p.m. for all future conference calls.

The next meeting is scheduled for Thursday, October 12, 2000.

Agenda Items:

No agenda items were discussed. Chairman Parks adjourned the meeting at 2:10 p.m..